

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROBERT CLARKE, Individually and On Behalf of)	
All Others Similarly Situated,)	
)	
)	CIVIL ACTION NO. 08-cv-0158 (DAB)
Plaintiff,)	
)	
vs.)	
)	
SECURITY CAPITAL ASSURANCE, LTD.,)	
PAUL S. GIORDANO, DAVID P. SHEA, XL)	
INSURANCE, LTD., MERRILL LYNCH, PIERCE)	
FENNER & SMITH, INC., GOLDMAN SACHS)	
& CO., and J.P. MORGAN SECURITIES, INC.,)	
)	
Defendants.)	
)	

**PLAINTIFF ERNEST KOEHLER'S MEMORANDUM IN SUPPORT OF MOTION TO BE
DESIGNATED AS LEAD PLAINTIFF**

Ernest Koehler respectfully submits this memorandum of law in support of his application to be designated as lead plaintiff in the above captioned matter. He purchased Security Capital Assurance, Ltd. securities in the open market between May 15, 2007 and August 30, 2007.

Koehler purchased a total of 4,000 shares on three separate occasions during the class period and sustained damages in excess of \$100,000.

Under the authorities, 15 U.S.C. §78 U-4 (a) (3) (B) (iii) (i) plaintiff presumably should be the lead plaintiff. Although Clarke has commenced the action and publicized that fact, his loss appears to be approximately \$400. However, Koehler's loss is approximately \$100,000, many times of the above named plaintiff.

Under well established principles, Koehler should be designated as the lead plaintiff as the party that sustains the largest loss is presumably the best qualified to be lead plaintiff. See *In re Cavanaugh*, 306 F.3d 726 (9th Cir. 2002); *Tanne v. Autobytel, Inc.*, 226 F.R.D 659 (C. D. Calif. 2005); *In re Doral Financial Corp. Securities Litigation*, 414 F. Supp. 2d 398 (S.D.N.Y. 2006); *Bassin v. Decode Genetics, Inc.*, 230 F.R.D 313 (S.D.N.Y. 2005).

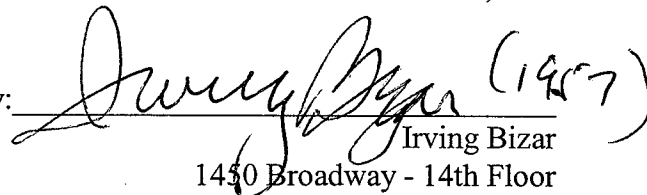
Koehler otherwise meets all of the requirements of Rule 23. He has designated as lead counsel - his attorneys - Irving Bizar of Ballon Stoll Bader & Nadler, P.C., an attorney experienced in securities class actions. It may be noted that Mr. Koehler is an attorney and familiar with the burdens of litigation. He assures the Court that he will do all that is required to maximize any recovery for the class.

For all the foregoing reasons it is respectfully requested that Koehler be designated the lead plaintiff and his counsel be designated as the attorneys for the class.

Dated: March 3, 2008

Respectfully submitted,
BALLON STOLL BADER & NADLER, P.C.

By: _____

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